

REMARKS

Applicants thank the Examiner for the thorough examination given the present application.

Status of the Claims

Claims 1, 4, 6-18, 20-21, and 24 will be pending in the above-identified application upon entry of the present amendment. Claims 6-18 and 20 are currently withdrawn from consideration. Claims 1, 4, 21, and 24 stand ready for further action on the merits. Claims 22-23 have been cancelled herein. Claim 1 has been amended. Support for the amendments to claim 1 can be found in claims 22-23 as well as in the present specification, *inter alia*, at pages 11-12 and in the examples. Claim 24 has been added. Support for new claim 24 can be found in the present specification, *inter alia*, at page 12. Thus, no new matter has been added.

Applicants submit that the present Amendment is merely formal in nature, reduces the number of issues under consideration, and places the case in condition for allowance. Alternatively, entry of the present amendment is proper to place the claims in better form for appeal.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Issues under 35 U.S.C. § 102

1) Claims 1, 4, and 21 are rejected under 35 U.S.C. § 102(e) as being anticipated by Hanaoka et al. '160 (US 6,750,160).

2) Claims 1, 4, and 21 are rejected under 35 U.S.C. § 102(b) as being anticipated by Balzer et al. '154 (US 4,985,154).

3) Claims 1, 4, and 21-23 are rejected under 35 U.S.C. § 102(e) as being anticipated by Johansson et al. '347 (US 2003/0181347).

4) Claims 1, 4, and 21-23 are rejected under 35 U.S.C. § 102(e) as being anticipated by Inoue et al. '834 (US 2004/0023834).

Applicants respectfully traverse. Reconsideration and withdrawal of these rejections are respectfully requested based on the following considerations.

Legal Standard for Determining Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art.” *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

The Present Invention

The present invention is characterized by a synergistic combination of four components, the solvent (A), the two surfactants (B), and water. The claimed invention is then characterized by the amount range of solvent (A), the amount range of surfactants (B), the range of (A)/(B), and the amount range of water. The claimed invention is also characterized by a synergistic combination of the two surfactants (B). The solvent (A) emulsifies well in water with the combination of the two surfactants (B). The present invention provides an unexpected improvement in view of the removal of flavors and the prevention of any remaining smell of solvents after CIP cleaning (pages 1-2 of the present specification).

Distinctions over the Cited References

As amended, claim 1 incorporates the subject matter of claim 22. Claim 22 was not included in the rejections over Hanaoka et al. '160 and Balzer et al. '154. Thus, these references do not disclose each and every element of independent claim 1.

With respect to the rejections over Johannson et al. '347 and Inoue et al. '834, these references fail to disclose "a surfactant comprising an alkyl polyglycoside and an alkyl glyceryl ether" as recited in amended claim 1. As such, these references also do not disclose each and every element of independent claim 1.

Accordingly, the present invention is not anticipated by Hanaoka et al. '160, Balzer et al. '154, Johannson et al. '347, or Inoue et al. '834 since the references do not teach or provide for each of the limitations recited in the pending claims.

For completeness, Applicants also respectfully submit that Hanaoka et al. '160, Balzer et al. '154, Johannson et al. '347, and Inoue et al. '834 do not render the present invention obvious because neither the references nor the knowledge in the art provide any disclosure, reason, or rationale that would allow one of ordinary skill in the art to arrive at the present invention as claimed.

Issues under 35 U.S.C. § 103(a)

1) Claims 1, 4, and 21-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Broze '936 (US 5,435,936).

2) Claims 1, 4, and 21-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishikawa et al. '630 (US 2003/0013630).

3) Claims 1, 4, and 21-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Rindo et al. '037 (US 2003/0191037).

4) Claims 1, 4, and 21-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yokosuka et al. '830 (US 6,117,830).

Applicants respectfully traverse. Reconsideration and withdrawal of these rejections are respectfully requested based on the following considerations.

Legal Standard for Determining Prima Facie Obviousness

MPEP 2141 sets forth the guidelines in determining obviousness. First, the Examiner has to take into account the factual inquiries set forth in *Graham v. John Deere*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), which has provided the controlling framework for an obviousness analysis. The four *Graham* factors are:

- (a) determining the scope and content of the prior art;
- (b) ascertaining the differences between the prior art and the claims in issue;
- (c) resolving the level of ordinary skill in the pertinent art; and
- (d) evaluating any evidence of secondary considerations.

Graham v. John Deere, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966).

Second, the Examiner has to provide some rationale for determining obviousness. MPEP 2143 sets forth some rationales that were established in the recent decision of *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385 (U.S. 2007). Exemplary rationales that may support a conclusion of obviousness include:

- (a) combining prior art elements according to known methods to yield predictable results;
- (b) simple substitution of one known element for another to obtain predictable results;
- (c) use of known technique to improve similar devices (methods, or products) in the same way;
- (d) applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (e) “obvious to try” – choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success
- (f) known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations are predictable to one of ordinary skill in the art;
- (g) some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

As the MPEP directs, all claim limitations must be considered in view of the cited prior art in order to establish a *prima facie* case of obviousness. *See* MPEP 2143.03.

Distinctions over the Cited References

Broze '936, Ishikawa et al. '630, Rindo et al. '037, and Yokosuka et al. '830 fail to disclose CIP cleaning. The claimed invention is capable of removing flavors and preventing any remaining smell of solvents after CIP cleaning. These cited references fail to disclose such features.

Broze '936 discloses a non-aqueous micro-emulsion but fails to disclose the combination of the two surfactants of the claimed invention. Specifically, the Examiner relies on Example I-H of Broze '936 to disclose the present invention. However, Example I-H of Broze '936 fails to disclose "a surfactant comprising an alkyl polyglycoside and an alkyl glyceryl ether" as recited in amended claim 1. In fact, Example I-H of Broze '936 is equivalent to Comparative Product 1-5 of Table 1 of the present specification. Comparative Product 1-5 shows an inferiority in the deodorization test and the base smell test when compared with the present invention.

Ishikawa et al. '630 disclose a detergent composition for clothing. Examples 4 and 7 of Ishikawa et al. '630 show an alkyl polyglycoside and an alkyl glyceryl ether. However, Ishikawa et al. '630 fail to disclose the combination of all four components in the recited proportions. For example, Ishikawa et al. '630 recite, "The ratio of the water-immiscible organic solvent is 20 mass % or less (including 0 mass %) in component (c)" (paragraph [0057]).

Furthermore, an alkyl polyglycoside and an alkyl glyceryl ether by themselves will not provide the advantages of the present invention, such as the removal of flavors and the prevention of any remaining smell of solvents after CIP cleaning, as shown by Comparative Product 1-4 of Table 1 of the present specification. Specifically, Comparative Product 1-4 shows an inferiority in the deodorization test and the base smell test when compared with the present invention.

Rindo et al. '037 disclose a detergent composition for cleaning precision parts. However, one of ordinary skill in the art would not apply such a detergent composition for cleaning precision parts to CIP cleaning in food industrial sites. That is, one of ordinary skill in the art would have no reason or rationale to apply such a detergent composition for cleaning precision parts to obtain the advantages of the removal of flavors and the prevention of any remaining smell of solvents after CIP cleaning. The Examiner cites Example 11 of Rindo et al. '037 as disclosing the present invention, but this example fails to disclose all four components and the quantitative proportions thereof of amended claim 1.

Yokosuka et al. '830 disclose a detergent composition for cleaning car bodies of a particulate solid dirt. However, one of ordinary skill in the art would not apply such a detergent composition for cleaning car bodies to CIP cleaning in food industrial sites. That is, one of ordinary skill in the art would have no reason or rationale to apply such a detergent composition for cleaning car bodies to obtain the advantages of the removal of flavors and the prevention of any remaining smell of solvents after CIP cleaning. The Examiner cites the examples of Table 29 of Yokosuka et al. '830 as disclosing the present invention, but the examples fail to disclose all four components and the quantitative proportions thereof of amended claim 1.

To establish a *prima facie* case of obviousness of a claimed invention, all of the claim limitations must be disclosed by the cited references. As discussed above, Broze '936, Ishikawa et al. '630, Rindo et al. '037, and Yokosuka et al. '830 fail to disclose all of the claim limitations of independent claim 1, and those claims dependent thereon. Accordingly, the combination of references does not render the present invention obvious.

Furthermore, the cited references or the knowledge in the art provide no reason or rationale that would allow one of ordinary skill in the art to arrive at the present invention as claimed. Therefore, a *prima facie* case of obviousness has not been established, and withdrawal of the outstanding rejections is respectfully requested. Any contentions of the USPTO to the contrary must be reconsidered at present.

New Claim 24

Applicants have newly added claim 24 in an effort to further define the scope of protection owed to Applicants. Applicants respectfully submit that claim 24 is allowable for the reasons given above. As such, Applicants respectfully assert that claim 24 clearly defines over the cited references, and an early action to this effect is earnestly solicited.

CONCLUSION

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case clearly indicating that each of claims 1, 4, 21, and 24 are allowed and patentable under the provisions of title 35 of the United States Code.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Reg. No. 58,258 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

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